

3. At the time Defendants Alabama and Tennessee filed their Notice of Removal, Mr. Fox had not yet been served.

4. Plaintiffs then filed an Amended Complaint which added Daseke, Inc. (“Daseke”) as a defendant. Because Daseke’s principal place of business is in Addison, Texas, complete diversity was destroyed. The matter was then remanded pursuant to the Order signed November 2, 2020, by United States District Judge Matthew J. Kacsmaryk. Ex. 3, Order Remanding.

5. Following remand, defense counsel agreed to accept service for Johnny Fox, who answered in state court on November 6, 2020.

6. Daseke then served plaintiff counsel with an affidavit signed by its chief legal officer, Soumit Roy, which discussed Daseke, Alabama, and Tennessee’s corporate separateness as well as Daseke’s lack of relationship to the accident. Ex. 4, Aff. of Soumit Roy.

7. Plaintiff then filed a Notice of Dismissal, dismissing Daseke with prejudice, on June 9, 2021. Ex. 5, Notice of Dismissal. The corresponding Order was signed the following day, June 10, 2021. Ex. 6, Order of Dismissal.

8. Defendants’, Alabama, Tennessee, and Johnny Fox, Notice of Removal is therefore timely as it is served within thirty days of receipt of the signed order dismissing Daseke with prejudice, as required by 28 U.S.C. § 1446(b)(3). 28 U.S.C. § 1446(b) (2011).

REMOVAL IS PROPER BASED ON DIVERSITY JURISDICTION

A. Total Diversity Exists Between the Parties.

9. Subject matter jurisdiction exists pursuant to section 1332, Title 28 of the United States Code, diversity jurisdiction.

10. Pursuant to section 1332, the district courts have original jurisdiction over all civil actions arising between citizens of different States where the matter in controversy exceeds the sum or

value of \$75,000.00, exclusive of interest and costs. *Stiftung v. Plains Mktg., L.P.*, 603 F.3d 295, 297 (5th Cir. 2010).

11. A corporation is considered a citizen of (1) every U.S. State and foreign state where it is incorporated, and (2) the U.S. State or foreign state where it has its principal place of business as per 28 U.S.C. § 1332(c)(1). 28 U.S.C. § 1332(c) (2011).

12. Plaintiffs allege they are residents of Dumas, Moore County, Texas.

13. Defendants Tennessee and Alabama are foreign corporations. Tennessee Steel Haulers, Inc.'s principal place of business is in Nashville, Tennessee. Alabama Carriers, Inc.'s principal place of business is in Birmingham, Alabama.

14. Defendant Johnny Fox is a citizen of Alabama, where he resides.

B. The Amount in Controversy Requirement is Satisfied

15. The amount in controversy exceeds \$75,000.00 as required by section 1332(a). 28 U.S.C. § 1332(a) (2011).

16. Plaintiffs' claims arise from a motor vehicle accident which occurred September 25, 2018, in Dumas, Moore County, Texas. Plaintiff pleads for damages of more than \$200,000 and less than \$1,000,000.00. *See* Ex. 1, Notice of Removal, p. 14. The Court therefore has subject matter jurisdiction over this case.

C. Removal Subsequent to Remand is Appropriate on New Grounds

17. A party removing based on diversity jurisdiction must do so within one year of commencement of the action. 28 U.S.C. § 1446(c)(1) (2011). A party may file a removal after remand where subsequent pleadings or events reveal a new and different ground for removal. *Everett Fin., Inc. v. Kocher*, No. 3:19-CV-1563-B, 2019 U.S. Dist. LEXIS 161477, at *4-5 (N.D. Tex. 2019). The prohibition against removal on previously asserted grounds "does not concern the

theory on which federal jurisdiction exists (i.e. federal question or diversity jurisdiction), but rather the pleading or event that made the case removable.” *Id.*

18. Here, plaintiffs filed suit July 15, 2021. *See* Ex. A, p.7. July 17, 2021, will mark one year following commencement of the action. Daseke was not initially a party to the lawsuit and complete diversity existed at the time Defendants Alabama and Tennessee filed their initial Notice of Removal. Once Daseke was joined, complete diversity was destroyed. The Order dismissing Daseke with prejudice, however, is a new ground for removal—Daseke’s dismissal means complete diversity once again exists.

PROPER VENUE AND COMPLIANCE WITH REMOVAL PROCEDURE

19. Pursuant to section 1441(a), venue of the removed action is proper in this Court as it is the district which embraces the place where the State action is pending. 28 U.S.C. 1441(a) (2011).

20. Defendants will give adverse parties written notice of the filing of this Notice of Removal as required by section 1446(d). Defendants will also promptly file a copy of this Notice of Removal with the District Clerk of Moore County, Texas.

21. True and correct copies of all process, pleadings, and any Orders served in the State court action are being filed with this Notice of Removal, as required by section 1446(a).

Accordingly, defendants Alabama Carriers, Inc., Tennessee Steel Haulers, Inc., and Johnny M. Fox, pursuant to and in conformity with the requirements set forth in 28 U.S.C. § 1446, respectfully remove Cause No. 20-58 from the 69th District Court of Moore County, Texas to the United States District Court for the Northern District of Texas, Amarillo Division.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served on the parties through their counsel of record, as follows, on this 7th day of July 2021.

Chris Hoffman
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Hoffman, Sheffield, Sauseda &
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1008 S. Madison
Amarillo, Texas 79101
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Attorneys for Plaintiffs

- ☒ *Via Electronic Service*
- ☐ *Via Facsimile Transmission*
- ☐ *Via E-Mail*
- ☐ *Via Certified Mail, RRR*
- ☐ *Via USPS First Class*
- ☐ *Via Hand Delivery*
- ☐ *Via Commercial Delivery Service*

/s/ Alex L. Yarbrough

Alex L. Yarbrough

EXHIBIT 1

Tennessee first received service, and a copy of Plaintiff's Original Petition, August 17, 2020. *See* Ex. B, p.2.

3. Similarly, the green card returned to the court clerk following service by certified mail on Alabama does not reflect the date of delivery. *See* Ex. A State Ct. R. p. 44. On information and belief Alabama first received service, and a copy of Plaintiff's Original Petition, August 17, 2020. *See* Ex. B, p. 1.

4. Defendant Johnny Fox has not been served as of the filing of this removal.

5. Defendants, Tennessee and Alabama's, removal is timely, as it is filed within thirty days of August 17, 2020, as required by 27 U.S.C. § 1446(b). 28 U.S.C. § 1446(b) (2011).

REMOVAL IS PROPER BASED ON DIVERSITY JURISDICTION

A. Total Diversity Exists Between the Parties.

6. Subject matter jurisdiction exists pursuant to section 1332, Title 28 of the United States Code, diversity jurisdiction.

7. Pursuant to section 1332, the district courts have original jurisdiction over all civil actions arising between citizens of different States where the matter in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs. *Stiftung v. Plains Mktg., L.P.*, 603 F.3d 295, 297 (5th Cir. 2010).

8. Diversity must exist at the time a lawsuit is commenced. *Coury v. Prot*, 85 F.3d 244, 248-49 (5th Cir. 1996).

9. A corporation is considered a citizen of (1) every U.S. State and foreign state where it is incorporated, and (2) the U.S. State or foreign state where it has its principal place of business as per 28 U.S.C. § 1332(c)(1) (2011).

10. Plaintiffs allege they are residents of Dumas, Moore County, Texas.

11. Defendants Tennessee and Alabama are foreign corporations. Tennessee Steel Haulers, Inc.'s principal place of business is in Nashville, Tennessee. Alabama Carriers, Inc.'s principal place of business is in Birmingham, Alabama.

12. Upon information and belief, Defendant Johnny Fox has not been properly served as of the date of this Notice of Removal. Accordingly, consent to removal by this Defendant is not required under 28 U.S.C. § 1446(b)(2)(A). Additionally, Plaintiffs allege in paragraph eight of their Original Petition, Defendant Johnny Fox is a nonresident of Texas who may be served in Alabama. Total diversity exists between the parties

B. The Amount in Controversy Requirement is Satisfied

13. The amount in controversy exceeds \$75,000.00 as required by section 1332(a). 28 U.S.C. § 1332(a) (2011).

14. Plaintiffs' claims arise from a motor vehicle accident which occurred September 25, 2018 in Dumas, Moore County, Texas. Plaintiff pleads for damages of more than \$200,000 and less than \$1,000,000.00. *See* Ex. A., State Ct. R. p. 8. The Court therefore has subject matter jurisdiction over this case.

PROPER VENUE AND COMPLIANCE WITH REMOVAL PROCEDURE

15. Pursuant to section 1441(a), venue of the removed action is proper in this Court as it is the district which embraces the place where the State action is pending. 28 U.S.C. 1441(a) (2011).

16. Defendants Alabama and Tennessee will give adverse parties written notice of the filing of this Notice of Removal as required by section 1446(d). Defendants will also promptly file a copy of this Notice of Removal with the District Clerk of Moore County, Texas.

17. True and correct copies of all process, pleadings, and any Orders served in the State court action are being filed with this Notice of Removal, as required by section 1446(a). *See* Ex. A, State Court. R.

Accordingly, defendants Alabama Carriers, Inc. and Tennessee Steel Haulers, Inc., pursuant to and in conformity with the requirements set forth in 28 U.S.C. § 1446, respectfully remove Cause No. 20-58 from the 69th District Court of Moore County, Texas to the United States District Court for the Northern District of Texas, Amarillo Division.

Respectfully submitted,

RINEY & MAYFIELD LLP
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/s/ Mitzi S. Mayfield

By _____
Mitzi S. Mayfield

And

RINCON LAW GROUP, P.C.
1014 N. Mesa, Suite 200
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/s/ Carlos Rincon

By: _____
CARLOS RINCON
Texas State Bar No. 16932700
CRincon@RinconLawGroup.com

*Attorneys for Defendants Tennessee Steel
Haulers, Inc. and Alabama Carriers, Inc.*

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served on the parties through their counsel of record, as follows, on this 16th day of September 2020.

Chris Hoffman
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(806) 376-8903 (Telephone)
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- ☐ *Via Hand Delivery*
- ☐ *Via Commercial Delivery Service*

/s/ Mitzi S. Mayfield

Mitzi S. Mayfield

EXHIBIT A

CAUSE NO. 20-58

JURY TRIAL DEMANDED

PERLA CABALLERO – SANCHEZ,	§	IN THE <u>69TH</u> DISTRICT COURT
Individually and as Next Friend to	§	
RAFAEL CORRAL, A Minor,	§	
	§	
Plaintiffs,	§	IN AND FOR
	§	
VS.	§	
	§	
TENNESSEE STEEL HAULERS, INC.,	§	
ALABAMA CARRIERS, INC., and	§	
JOHNNY M. FOX,	§	
	§	MOORE COUNTY, TEXAS
Defendants.		

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Perla Caballero-Sanchez, individually and as Next Friend to Rafael Corral, A Minor (hereinafter referred to as "Plaintiffs") complaining of Tennessee Steel Haulers, Inc., Alabama Carriers, Inc., and Johnny Fox (hereinafter referred to as "Defendants") and for cause of action would show:

I. DISCOVERY PLAN

1. Pursuant to TEX. R. CIV. P. 190.1, Plaintiff intends for discovery to be conducted under level 3 and in accordance with the TEX. R. CIV. P. 190.4 Discovery Control Plan.

II. PARTIES

2. Plaintiff, Perla Caballero-Sanchez, is an individual who resides in Dumas, Moore County, Texas. For identification purposes the last three digits of her driver's license are 574 and the last three digits of her social security number are 259.

3. Plaintiff, Rafael Corral, is a minor who resides in Dumas, Texas. For identification purposes his date of birth is 07/25/1980.

4. Defendant, Tennessee Steel Haulers, Inc., is a domestic corporation duly licensed to do business in the state of Texas and may be served with process by serving its registered agent, CT Corporation System, 800 S. Gay Street, Suite 2021, Knoxville, Tennessee, 37929-9710.

5. Plaintiffs specifically invoke the right to institute this suit against whatever entity was conducting business using the assumed or common name of Tennessee Steel Haulers, Inc. with regard to the events described in this petition. Plaintiffs expressly invoke this right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of the party substituted at a later time upon the motion of any party or the Court.

6. Defendant, Alabama Carriers, Inc. is a domestic corporation duly licensed to do business in the state of Texas and may be served with process by serving its registered agent, CT Corporation System, 800 S. Gay Street, Suite 2021, Knoxville, Tennessee, 37929-9710.

7. Plaintiffs specifically invoke the right to institute this suit against whatever entity was conducting business using the assumed or common name of Tennessee Steel Haulers, Inc. with regard to the events described in this petition. Plaintiffs expressly invoke this right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of the party substituted at a later time upon the motion of any party or the Court.

8. Defendant, Johnny M. Fox is an individual, nonresident of Texas whose usual abode is located at Deatsville, Elmore County, Alabama and who may be served with citation at his place of residence, 118 County Road 100, Deatsville, Alabama,

36022-2739, or wherever he may be found.

III. MINSOMER/ALTER EGO

9. In the event any parties are misnamed or are not included herein, it is Plaintiffs contention that such was a “misidentification”, “misnomer” and/or such parties are/were “alter egos” of parties named herein. Alternatively, Plaintiffs contend that such “corporate veils” should be pierced to hold such parties properly included in the interest of justice.

IV. JURISDICTION

10. The court has jurisdiction over Defendants, Tennessee Steels Haulers, Inc., and Alabama Carriers, Inc., because defendants do business in Texas, have committed a tort, in whole or in part, in Texas, have continuing contacts with Texas, and are amenable to service by a Texas court.

11. The court has jurisdiction over Defendant, Johnny Fox, a nonresident, because Defendant was involved in a collision while operating a motor vehicle in Texas, as more fully described below.

12. The court has jurisdiction over the controversy because the amount for which Plaintiff herein sues is within the jurisdictional limits of the court.

V. VENUE

13. Venue of this action is proper in Moore County, Texas, where the incident made the basis of this lawsuit occurred. CIV. PRAC. & REM. CODE §15.002(a)(1).

VI. FACTS

14. This is an action for money damages arising from an automobile collision between Plaintiffs and Defendants occurring on or about September 25, 2018, in which

Plaintiffs suffered injuries and damages as more fully described below. More specifically, Plaintiffs would show that at approximately 8:00 a.m. Plaintiff, Perla Caballero-Sanchez, was operating her vehicle and heading westbound on E. 5th Street in Dumas, Moore County, Texas. Defendant, Johnny Fox, was traveling southbound on S. Maddox Avenue. At the intersection of E 5th Street and S. Maddox Avenue, Defendant Fox disregarded a stop signal and collided with Plaintiff's vehicle. Defendant's negligence caused Plaintiffs' injuries and damages made the subject of this suit.

VI. NEGLIGENCE AND NEGLIGENCE PER SE

A. Johnny Fox

15. Plaintiffs would show that the collision described above, and their resulting injuries and damages were the direct and proximate result of Defendant's negligence. Specifically, Plaintiffs would show that Defendant, Johnny Fox, was negligent and negligent per se in one or more of the following respects, to wit:

- a) Violation Texas Transportation Code § 545.151 by failing to stop, yield, and grant immediate use of the intersection in obedience to an official traffic-control device or sign. And proceeding when the intersection can be safely entered without interference or collision with traffic using a different street or roadway;
- b) Violation Texas Transportation Code § 545.153 by failing to yield right-of-way to a vehicle that has entered the intersection from another highway or that is approaching so closely as to be an immediate hazard to the operator's movement in or across the intersection;

- c) By failing to use due care;
- d) By failing to pay proper attention to the roadway;
- e) In failing to keep a proper look-out; and
- f) In failing to take evasive action necessary to avoid the collision.

16. Each of the foregoing acts and omissions, whether taken singularly or in any combination, was a proximate cause of the collision made the basis of this suit and Plaintiffs' resulting injuries and damages.

B. Alabama Carriers, Inc.

17. At all times relevant to this matter, Defendant Johnny Fox was in the course and scope of his employment with Defendant Alabama Carriers, Inc. Therefore, Plaintiffs would show that Defendant Alabama Carriers, Inc. was negligent and negligent per se in one or more of the following respects, to wit:

- a) Negligently entrusting one of its vehicles to an incompetent driver;
- b) By failing to properly train individuals who had access to its vehicles;
- c) By failing to provide and/or enforce driving safety policies to individuals to whom it entrusted its vehicles; and
- d) By failing to exercise reasonable supervision of drivers to whom it entrusted its vehicles.

18. The negligence of Defendant Johnny Fox is attributable to Defendant Alabama Carriers, Inc. as the agent and employer of the driver. Plaintiffs specifically invoke the doctrine of *respondeat superior* with respect to the acts and/or omissions of Defendant Johnny Fox, which were performed within the course and scope of his duties with Defendant Alabama Carriers, Inc.

B. Tennessee Steel Haulers, Inc.

19. Defendant Tennessee Steel Haulers, Inc. is the parent company of Alabama Carriers, Inc. (the owner of the load being hauled by Defendant Johnny Fox and Mr. Fox's employer at the time of the accident made the basis of this suit). Therefore, Plaintiff would show that Defendant Tennessee Steel Haulers, Inc. was negligent and negligent per se in one or more of the following respects, to wit:

- a) Negligently entrusting one of its vehicles to an incompetent driver;
- b) By failing to properly train individuals who had access to its vehicles;
- c) By failing to provide and/or enforce driving safety policies to individuals to whom it entrusted its vehicles; and
- d) By failing to exercise reasonable supervision of drivers to whom it entrusted its vehicles.

20. The negligence of Defendant Johnny Fox is attributable to Defendant Tennessee Steel Haulers, Inc. as the agent and employer of the driver. Plaintiffs specifically invoke the doctrine of *respondeat superior* with respect to the acts and/or omissions of Defendant Johnny Fox, which were performed within the course and scope of his duties with Defendant Tennessee Steel Haulers, Inc.

VII. DAMAGES

A. Perla Caballero-Sanchez

21. As a direct and proximate result of Defendant's negligence, Plaintiff, Perla Caballero-Sanchez, suffered serious physical injuries at minimum to her head, neck, back, bilateral arms and hands.

Plaintiff sues Defendant for the following damages:

- a) physical pain and mental anguish in the past and future;
- b) physical impairment in the past and, in reasonable probability, will be sustained in the future;
- c) disfigurement sustained in the past and, in reasonable probability, will be sustained in the future;
- d) loss of earning capacity in the past and, in reasonable probability, will be sustained in the future; and
- e) reasonable and necessary medical expenses incurred in the past and in the future for the treatment of her injuries.

B. Rafael Corral

22. As a direct and proximate result of Defendant's negligence, Plaintiff, Rafael Corral, suffered serious physical injuries at minimum to his head, neck, back, bilateral shoulders, abdomen, hip, right knee, and bilateral feet. Perla Caballero-Sanchez, as Next Friend to Rafael Corral sues Defendants for the following damages:

- a) physical pain and mental anguish in the past and future;
- b) physical impairment in the past and future;
- c) loss of earning capacity in the past and future; and
- d) Reasonable and necessary medical expenses in the future for treatment of Rafael Corral's injuries.

23. Plaintiff, Perla Caballero-Sanchez, Individually, sues Defendants for the following damages:

- a) Reasonable and necessary medical expenses incurred by her in the past

for the treatment of Rafael Corral's injuries, and in the future for the treatment of Rafael Corral's injuries until he reaches the age of eighteen.

VIII. RULE 47 CLAIM FOR RELIEF

24. In accordance Rule 47(c) of the Texas Rules of Civil Procedure, Plaintiff, Perla Caballero-Sanchez states that she seeks only monetary relief of more than \$200,000.00 and less than \$1,000,000.00, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

IX. JURY DEMAND

25. Plaintiffs hereby demand a trial by jury.

X. PRAYER

25. WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants be cited to appear and answer herein and that upon final jury hearing hereof they have:

- a) Jury verdict against the Defendants for the full amount of Plaintiffs' damages, and thereafter judgment on the jury verdict;
- b) Pre-judgment and post-judgment interest as provided by law;
- c) Costs of suit; and
- d) Such other and further relief, special or general, at law or in equity, to which Plaintiffs may show themselves justly entitled.

XI. DISCOVERY REQUESTS

26. Pursuant to TEX. R. OF CIV. P. 194, Plaintiffs request Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2. The statutory requests for disclosure to Defendants as enumerated by TEX.

R. OF CIV. P 194.2(a) through (l), inclusive, are hereby incorporated as if fully set forth herein.

Respectfully submitted,

HOFFMAN, SHEFFIELD, SAUSEDA & HOFFMAN, PLLC
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Telephone: (806) 376-8903
Fax: (806) 376-5345

/s/ Chris Hoffman

Chris Hoffman
State Bar No. 24002299
choffman@hsshlaw.com

J. E. Sauseda
State Bar No. 17688200
jesausseda@hsshlaw.com

Attorneys for Plaintiffs

REQUEST FOR ISSUANCE

CAUSE NUMBER: 20-58

TYPE OF ISSUANCE: *E-FILING-YOU MUST ASSESS THE TYPE OF ISSUANCE, TYPE OF SERVICE, SERVICE FEES, AND COPY FEES ACCORDINGLY*

- ☒ CITATION
- ☐ PRECEPT
- ☐ TRO
- ☐ PROTECTIVE ORDER
- ☐ ABSTRACT OF JUDGMENT
- ☐ WRIT OF EXECUTION
- ☐ OTHER: _____

TYPE OF SERVICE:

- ☐ COUNTY SHERIFF *SERVICE FEE AND COPY FEE REQUIRED*
- ☐ CIVIL PROCESS SERVER-AUTHORIZED PERSON TO PICK-UP: _____
- ☐ POSTING *SERVICE FEE AND COPY FEE REQUIRED*
- ☐ PUBLICATION *SERVICE FEE REQUIRED*
- ☒ CERTIFIED MAIL *SERVICE FEE AND COPY FEE REQUIRED*
- ☐ TO BE MAILED TO PARTY REQUESTING SERVICE *SELF ADDRESSED STAMPED ENVELOPE AND/OR POSTAGE FEE REQUIRED*
- ☐ TO BE EMAILED TO PARTY REQUESTING SERVICES-MUST INCLUDE EMAIL ADDRESS

TITLE OF DOCUMENT: Plaintiffs' Original Petition

FOR EACH PARTY SERVED YOU MUST ASSESS THE APPROPRIATE NUMBER OF COPIES OF THE DOCUMENT TO BE SERVED * UNLESS CLERK IS TO EMAIL, THEN NO COPY FEE IS REQUIRED*

FILE MARKED DATE OF DOCUMENT TO BE SERVED: ____/____/____

PARTY TO BE SERVED: (PLEASE FILL OUT A NEW REQUEST FORM PER PARTY TO BE SERVED)

NAME: Tennessee Steel Haulers, Inc.

ADDRESS: 800 S. Gay Street, Suite 2021, Knoxville, TN 37929-9710

AGENT, IF APPLICABLE: CT Corporation System

PARTY/ATTORNEY REQUESTING SERVICE:

NAME: J. E. Sauseda, Hoffman Sheffield Sauseda & Hoffman, PLLC

MAILING ADDRESS: 1008 S. Madison, Amarillo, TX 79101

PHONE NUMBER: 806-376-8903 FAX NUMBER: 806-376-5345

EMAIL ADDRESS: jhaugen@hsshlaw.com

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PARTY TO BE SERVED: (PLEASE FILL OUT A NEW REQUEST FORM PER PARTY TO BE SERVED)

NAME: Alabama Carriers, Inc.

ADDRESS: 800 S. Gay Street, Suite 2021, Knoxville, TN 37929-9710

AGENT, IF APPLICABLE: CT Corporation System

PARTY/ATTORNEY REQUESTING SERVICE:

NAME: J. E. Sauseda, Hoffman Sheffield Sauseda & Hoffman, PLLC

MAILING ADDRESS: 1008 S. Madison, Amarillo, TX 79101

PHONE NUMBER: 806-376-8903 FAX NUMBER: 806-376-5345

EMAIL ADDRESS: jhaugen@hsshlaw.com

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FILE MARKED DATE OF DOCUMENT TO BE SERVED: ____ / ____ / ____

PARTY TO BE SERVED: (PLEASE FILL OUT A NEW REQUEST FORM PER PARTY TO BE SERVED)

NAME: Johnny M. Fox

ADDRESS: 118 County Road 100, Deatsville, AL 36022-2739

AGENT, IF APPLICABLE: _____

PARTY/ATTORNEY REQUESTING SERVICE:

NAME: J. E. Sauseda, Hoffman Sheffield Sauseda & Hoffman, PLLC

MAILING ADDRESS: 1008 S. Madison, Amarillo, TX 79101

PHONE NUMBER: 806-376-8903 FAX NUMBER: 806-376-5345

EMAIL ADDRESS: jhaugen@hsshlaw.com

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FILE MARKED DATE OF DOCUMENT TO BE SERVED: ____ / ____ / ____

PARTY TO BE SERVED: (PLEASE FILL OUT A NEW REQUEST FORM PER PARTY TO BE SERVED)

NAME: Tennessee Steel Haulers, Inc.

ADDRESS: 2607 Brick Church Pike, Nashville TN 37207-4409

AGENT, IF APPLICABLE: Attn: Ray Barbarite

PARTY/ATTORNEY REQUESTING SERVICE:

NAME: J. E. Sauseda, Hoffman Sheffield Sauseda & Hoffman, PLLC

MAILING ADDRESS: 1008 S. Madison, Amarillo, TX 79101

PHONE NUMBER: 806-376-8903 FAX NUMBER: 806-376-5345

EMAIL ADDRESS: jhaugen@hsshlaw.com

REQUEST FOR ISSUANCECAUSE NUMBER: **20-58****TYPE OF ISSUANCE: *E-FILING-YOU MUST ASSESS THE TYPE OF ISSUANCE, TYPE OF SERVICE, SERVICE FEES, AND COPY FEES ACCORDINGLY***

- ☒ CITATION
☐ PRECEPT
☐ TRO
☐ PROTECTIVE ORDER
☐ ABSTRACT OF JUDGMENT
☐ WRIT OF EXECUTION
☐ OTHER: _____

TYPE OF SERVICE:

- ☐ COUNTY SHERIFF *SERVICE FEE AND COPY FEE REQUIRED*
☐ CIVIL PROCESS SERVER-AUTHORIZED PERSON TO PICK-UP: _____
☐ POSTING *SERVICE FEE AND COPY FEE REQUIRED*
☐ PUBLICATION *SERVICE FEE REQUIRED*
☒ CERTIFIED MAIL *SERVICE FEE AND COPY FEE REQUIRED*
☐ TO BE MAILED TO PARTY REQUESTING SERVICE *SELF ADDRESSED STAMPED ENVELOPE AND/OR POSTAGE FEE REQUIRED*
☐ TO BE EMAILED TO PARTY REQUESTING SERVICES-**MUST INCLUDE EMAIL ADDRESS**

TITLE OF DOCUMENT: Plaintiffs' Original Petition**FOR EACH PARTY SERVED YOU MUST ASSESS THE APPROPRIATE NUMBER OF COPIES OF THE DOCUMENT TO BE SERVED * UNLESS CLERK IS TO EMAIL, THEN NO COPY FEE IS REQUIRED*****FILE MARKED DATE OF DOCUMENT TO BE SERVED:** ____ / ____ / ____**PARTY TO BE SERVED:** (PLEASE FILL OUT A NEW REQUEST FORM PER PARTY TO BE SERVED)

NAME: Alabama Carriers, Inc.

ADDRESS: 2607 Brick Church Pike, Nashville TN 37207-4409

AGENT, IF APPLICABLE: Attn: Ray Barbarite

PARTY/ATTORNEY REQUESTING SERVICE:

NAME: J. E. Sauseda, Hoffman Sheffield Sauseda & Hoffman, PLLC

MAILING ADDRESS: 1008 S. Madison, Amarillo, TX 79101

PHONE NUMBER: 806-376-8903 FAX NUMBER: 806-376-5345

EMAIL ADDRESS: jhaugen@hsshlaw.com

CAUSE NO. 20-58

PERLA CABALLERO-SANCHEZ,
Individually and as Next Friend to
RAFAEL CORRAL, A Minor,

Plaintiffs,

V.

TENNESSEE STEEL HAULERS, INC.,
ALABAMA CARRIES, INC., and
JOHNNY M. FOX,

Defendants.

IN THE 69TH DISTRICT COURT

IN AND FOR

MOORE COUNTY, TEXAS

**DEFENDANTS TENNESSEE STEEL HAULERS, INC. AND ALABAMA CARRIERS,
INC.'S ORIGINAL ANSWER TO PLAINTIFFS' ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT

Defendants Tennessee Steel Haulers, Inc. (“Tennessee”) and Alabama Carriers, Inc. (“Alabama”) (collectively, “Defendants”) file this Original Answer to Plaintiffs’, Perla Caballero-Sanchez, individually and as next friend to Rafael Corral, a minor (collectively, “Plaintiffs”) Original Petition as follows.

I. General Denial

1. Defendants Tennessee and Alabama generally deny the allegations pleaded in Plaintiffs' Original Petition pursuant to Texas Rule of Civil Procedure 92. Tex. R. Civ. P. 92.

II. Affirmative Defenses and Additional Defensive Matters

2. As separate, alternative, or additional defenses or defensive matters, Defendants Tennessee and Alabama state as follows:

3. Based on Plaintiff Perla-Caballero Sanchez's comparative fault and negligence, Defendants are entitled to a reduction in damages under the proportionate responsibility statute as articulated in Texas Civil Practice and Remedies Code § 33.001 et seq.

4. In the event Plaintiffs settle with any party who may be responsible, in whole or in part, or choose not to bring claims against any responsible party, in whole or in part, for any of the alleged injuries and/or damages, Defendants are entitled to have such party designated as a settling and/or responsible party pursuant to Texas Civil Practice and Remedies Code Chapter 33.

5. In the event of a recovery of damages from Defendants, any award of pre- and/or post-judgment interest is limited by the provisions of the Texas Finance Code.

6. Defendants further allege, by way of affirmative defense and/or additional defensive matter that under Texas Civil Practice and Remedies Code Chapter 18.091, in addition to any other limitation under law, Plaintiffs' recovery for loss of earnings, loss of earning capacity, loss of contributions of a pecuniary value, or loss of inheritance, if any, are limited to the recovery of the net loss after reduction for income tax payments or unpaid tax liability pursuant to any federal income tax law.

7. In the event an award of damages is made to Plaintiffs for medical, health, or mental health care expenses, they are limited to recover only those amounts actually paid or incurred, pursuant to the Texas Civil Practice and Remedies Code. Tex. Civ. Prac. & Rem. Code § 41.0105.

III. Requests for Disclosure

8. Pursuant to Texas Rule of Civil Procedure 194, Plaintiffs are requested to disclose, within thirty days of service of this request, the information or material described in Rule 194.

IV. Right to Supplement and/or Amend

9. Pursuant to the Texas Rules of Civil Procedure, Defendants reserve the right to supplement and/or amend this pleading.

Defendants Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc., respectfully request plaintiffs Perla Caballero-Sanchez, individually and as next friend of Rafael Corral, a minor, take

nothing by reason of the allegations contained in their Original Petition, and that Defendants be awarded any and all other relief to which they may be so justly entitled, at law or in equity.

Respectfully submitted,

RINCON LAW GROUP, P.C.
1014 N. Mesa, Suite 200
El Paso, Texas 79902
(915) 532-6800 (Telephone)
(915) 532-6808 (Facsimile)

By: /s/ Ancel Escobar
CARLOS RINCON
Texas State Bar No. 16932700
CRincon@ RinconLawGroup.com
ANCEL E. ESCOBAR
Texas State Bar No. 24101171
AEscobar@RinconLawGroup.com
*Attorneys for defendants Tennessee Steel
Haulers, Inc. and Alabama Carriers, Inc.*

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served on the parties through their counsel of record, as follows, on this 8th day of September 2020.

Chris Hoffman
JE Sauseda
Hoffman, Sheffield, Sauseda &
Hoffman, PLLC
1008 S. Madison
Amarillo, Texas 79101
(806) 376-8903 (Telephone)
(806) 376-5345 (Facsimile)
Attorneys for Plaintiffs

- ☒ *Via Electronic Service*
- ☐ *Via Facsimile Transmission*
- ☒ *Via E-Mail*
- ☐ *Via Certified Mail, RRR*
- ☐ *Via USPS First Class*
- ☐ *Via Hand Delivery*
- ☐ *Via Commercial Delivery Service*

/s/ Ancel Escobar
ANCEL ESCOBAR

THE STATE OF TEXAS
COUNTY OF MOORE

CAUSE NO: 20-58

CITATION TO SERVE NON-RESIDENT DEFENDANT
PLAINTIFF'S ORIGINAL PETITION

TO: **TENNESSEE STEEL HAULERS INC, DEFENDANT**
ATTN: RAY BARBARITE
2607 BRICK CHURCH PIKE
NASHVILLE, TN. 37207-4409

In the hereinafter styled and numbered cause: 20-58

You are hereby commanded to appear before the 69TH DISTRICT COURT of Moore County to be held at the courthouse located at 715 S Dumas Ave in the City of Dumas, Moore County, Texas, by filing a written answer to the petition of PLAINTIFF – on or before 10:00 A.M. on the Monday next after the expiration of twenty (20) days after the date of service thereof at the office of the District Clerk at 715 S Dumas Ave-Room 109, Dumas, Texas 79029, a copy of which accompanies this citation, in cause number **20-58** styled:

PERLA CABALLERO SANCHEZ, NEXT FRIEND TO
RAFAEL CORRAL, A MINOR
-VS-
TENNESSEE STEEL HAULERS INC
ALABAMA CARRIERS INC
JOHNNY M FOX

Filed in said court on the 07/15/2020.

The name and address of the attorney of record for above PLAINTIFF, is CHRIS HOFFMAN, 1008 S. MADISON, AMARILLO, TEXAS 79101.

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a Default Judgment may be taken against you."

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT Dumas, Texas 79029, ON THIS THE 12th day of August, 2020.



Diane Hoefling, District Clerk
Moore County
715 S Dumas Ave-Room 109
Dumas, Texas 79029

By: Elvia Zapata
ELVIA ZAPATA, DEPUTY CLERK

OFFICER/AUTHORIZED PERSON RETURN

CAME to hand on the _____ day of _____, 20____.

EXECUTED by certified mail # 7012 3050 0000 4181 2440 to the within named TENNESSEE STEEL HAULERS INC, return receipt requested with restricted delivery, a true copy of this citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION, having first attached such copy of such PLAINTIFF'S ORIGINAL PETITION to such copy of citation, to the following address:

2607 BRICK CHURCH PIKE, NASHVILLE, TN. 37207-4409

Service upon the defendant is evidenced by the return receipt incorporated herein and attached hereto signed by _____ and dated _____.

NOT EXECUTED, for the following reason:

_____.

TO CERTIFY WHICH WITNESS MY OFFICIAL

SIGNATURE.

County, Texas

Deputy.

AUTHORIZED PERSON

By _____

THE STATE OF TEXAS
COUNTY OF MOORE

CAUSE NO: 20-58

CITATION TO SERVE NON-RESIDENT DEFENDANT
PLAINTIFF'S ORIGINAL PETITION

TO: ALABAMA CARRIERS INC, DEFENDANT
ATTN: RAY BARBARITE
2607 BRICK CHURCH PIKE
NASHVILLE, TN. 37207-4409

In the hereinafter styled and numbered cause: 20-58

You are hereby commanded to appear before the 69TH DISTRICT COURT of Moore County to be held at the courthouse located at 715 S Dumas Ave in the City of Dumas, Moore County, Texas, by filing a written answer to the petition of PLAINTIFF – on or before 10:00 A.M. on the Monday next after the expiration of twenty (20) days after the date of service thereof at the office of the District Clerk at 715 S Dumas Ave-Room 109, Dumas, Texas 79029, a copy of which accompanies this citation, in cause number **20-58** styled:

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RAFAEL CORRAL, A MINOR
-VS-
TENNESSEE STEEL HAULERS INC
ALABAMA CARRIERS INC
JOHNNY M FOX**

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ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT Dumas, Texas 79029, ON THIS THE 12th day of August, 2020.



Diane Hoefling, District Clerk
Moore County
715 S Dumas Ave-Room 109
Dumas, Texas 79029

By: Elvia Zapata
ELVIA ZAPATA, DEPUTY CLERK

OFFICER/AUTHORIZED PERSON RETURN

CAME to hand on the _____ day of _____, 20____.

EXECUTED by certified mail # 7012 3050 0000 4181 2433 to the within named ALABAMA CARRIERS INC, return receipt requested with restricted delivery, a true copy of this citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION, having first attached such copy of such PLAINTIFF'S ORIGINAL PETITION to such copy of citation, to the following address:

2607 BRICK CHURCH PIKE, NASHVILLE, TN. 37207-4409

Service upon the defendant is evidenced by the return receipt incorporated herein and attached hereto signed by _____ and dated _____.

NOT EXECUTED, for the following reason:

_____.

TO CERTIFY WHICH WITNESS MY OFFICIAL

SIGNATURE.

County, Texas

Deputy.

AUTHORIZED PERSON

By _____

**THE STATE OF TEXAS
COUNTY OF MOORE
CAUSE NO: 20-58
CITATION TO SERVE NON-RESIDENT DEFENDANT
PLAINTIFF'S ORIGINAL PETITION**

**TO: TENNESSEE STEEL HAULERS, INC., DEFENDANT
BY SERVING: CT CORPORATION SYSTEM, ITS REGISTERED AGENT
800 S. GAY STREET, SUITE 2021
KNOXVILLE, TN. 37929-9710**

In the hereinafter styled and numbered cause: 20-58

You are hereby commanded to appear before the 69TH DISTRICT COURT of Moore County to be held at the courthouse located at 715 S Dumas Ave in the City of Dumas, Moore County, Texas, by filing a written answer to the petition of PLAINTIFF – on or before 10:00 A.M. on the Monday next after the expiration of twenty (20) days after the date of service thereof at the office of the District Clerk at 715 S Dumas Ave-Room 109, Dumas, Texas 79029, a copy of which accompanies this citation, in cause number **20-58** styled:

**PERLA CABALLERO SANCHEZ, NEXT FRIEND TO
RAFAEL CORRAL, A MINOR
-VS-
TENNESSEE STEEL HAULERS INC
ALABAMA CARRIERS INC
JOHNNY M FOX**

Filed in said court on the 07/15/2020.

The name and address of the attorney of record for above PLAINTIFF, is

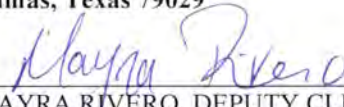
CHRIS HOFMANN, 1008 S. MADISON, AMARILLO, TX 79101.

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a Default Judgment may be taken against you."

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT Dumas, Texas 79029, ON THIS THE 16th day of July, 2020.



**Diane Hoefling, District Clerk
Moore County
715 S Dumas Ave-Room 109
Dumas, Texas 79029**

By: 
MAYRA RIVERO, DEPUTY CLERK



OFFICER/AUTHORIZED PERSON RETURN

CAME to hand on the _____ day of _____, 20____.

EXECUTED by certified mail 7012 3050 0000 4181 2075 to the within named TENNESSEE STEEL HAULERS, INC., BY SERVING: CT CORPORATION SYSTEM, ITS REGISTERED AGENT return receipt requested with restricted delivery, a true copy of this citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION, having first attached such copy of such PLAINTIFF'S ORIGINAL PETITION to such copy of citation, to the following address:

800 S. GAY STREET, SUITE 2021, KNOXVILLE, TN. 37929-9710

Service upon the defendant is evidenced by the return receipt incorporated herein and attached hereto signed by _____ and dated _____.

NOT EXECUTED, for the following reason:

_____.

TO CERTIFY WHICH WITNESS MY OFFICIAL SIGNATURE.

_____ County, Texas

By _____ Deputy

THE STATE OF TEXAS
COUNTY OF MOORE
CAUSE NO: 20-58
CITATION TO SERVE NON-RESIDENT DEFENDANT
PLAINTIFF'S ORIGINAL PETITION

TO: ALABAMA CARRIERS, INC., DEFENDANT
BY SERVING: CT CORPORATION SYSTEM, ITS REGISTERED AGENT
800 S. GAY STREET, SUITE 2021
KNOXVILLE, TN. 37929-9710

In the hereinafter styled and numbered cause: 20-58

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PERLA CABALLERO SANCHEZ, NEXT FRIEND TO
RAFAEL CORRAL, A MINOR
-VS-
TENNESSEE STEEL HAULERS INC
ALABAMA CARRIERS INC
JOHNNY M FOX

Filed in said court on the 07/15/2020.

The name and address of the attorney of record for above PLAINTIFF, is

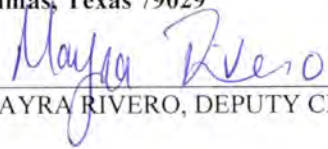
CHRIS HOFMANN, 1008 S. MADISON, AMARILLO, TX 79101.

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a Default Judgment may be taken against you."

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT Dumas, Texas 79029, ON THIS THE 16th day of July, 2020.



Diane Hoefling, District Clerk
Moore County
715 S Dumas Ave-Room 109
Dumas, Texas 79029

By: 
MAYRA RIVERO, DEPUTY CLERK



OFFICER/AUTHORIZED PERSON RETURN

CAME to hand on the _____ day of _____, 20____.

EXECUTED by certified mail 7012 3050 0000 4181 2082 to the within named ALABAMA CARRIERS, INC., BY SERVING: CT CORPORATION SYSTEM, ITS REGISTERED AGENT return receipt requested with restricted delivery, a true copy of this citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION, having first attached such copy of such PLAINTIFF'S ORIGINAL PETITION to such copy of citation, to the following address:

800 S. GAY STREET, SUITE 2021, KNOXVILLE, TN. 37929-9710

Service upon the defendant is evidenced by the return receipt incorporated herein and attached hereto signed by _____ and dated _____.

NOT EXECUTED, for the following reason:

_____.

TO CERTIFY WHICH WITNESS MY OFFICIAL SIGNATURE.

_____ County, Texas

By _____ Deputy

THE STATE OF TEXAS
COUNTY OF MOORE
CAUSE NO: 20-58
CITATION TO SERVE NON-RESIDENT DEFENDANT
PLAINTIFF'S ORIGINAL PETITION

TO: JOHNNY M. FOX, DEFENDANT
118 COUNTY ROAD 100
DEATSVILLE, AL. 36022-2739
OR WHEREVER HE MAY BE FOUND

In the hereinafter styled and numbered cause: 20-58

You are hereby commanded to appear before the 69TH DISTRICT COURT of Moore County to be held at the courthouse located at 715 S Dumas Ave in the City of Dumas, Moore County, Texas, by filing a written answer to the petition of PLAINTIFF – on or before 10:00 A.M. on the Monday next after the expiration of twenty (20) days after the date of service thereof at the office of the District Clerk at 715 S Dumas Ave-Room 109, Dumas, Texas 79029, a copy of which accompanies this citation, in cause number **20-58** styled:

PERLA CABALLERO SANCHEZ, NEXT FRIEND TO
RAFAEL CORRAL, A MINOR
-VS-
TENNESSEE STEEL HAULERS, INC.
ALABAMA CARRIERS, INC.
JOHNNY M. FOX

Filed in said court on the 07/15/2020.

The name and address of the attorney of record for above PLAINTIFF, is

CHRIS HOFMANN, 1008 S. MADISON, AMARILLO, TX 79101.

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a Default Judgment may be taken against you."

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT Dumas, Texas 79029, ON THIS THE 16th day of July, 2020.



Diane Hoeffling, District Clerk
Moore County
715 S Dumas Ave-Room 109
Dumas, Texas 79029

By: 
MAYRA RIVERO, DEPUTY CLERK



3

OFFICER/AUTHORIZED PERSON RETURN

CAME to hand on the _____ day of _____, 20____.

EXECUTED by certified mail 7012 3050 0000 4181 2099 to the within named JOHNNY M. FOX return receipt requested with restricted delivery, a true copy of this citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION, having first attached such copy of such PLAINTIFF'S ORIGINAL PETITION to such copy of citation, to the following address:

118 COUNTY ROAD 100, DEATSVILLE, AL. 36022-2739

Service upon the defendant is evidenced by the return receipt incorporated herein and attached hereto signed by _____ and dated _____.

NOT EXECUTED, for the following reason:

_____.

TO CERTIFY WHICH WITNESS MY OFFICIAL SIGNATURE.

_____ County, Texas

By _____ Deputy

**THE STATE OF TEXAS
COUNTY OF MOORE
CAUSE NO: 20-58
CITATION TO SERVE NON-RESIDENT DEFENDANT
PLAINTIFF'S ORIGINAL PETITION**

**TO: JOHNNY M. FOX, DEFENDANT
118 COUNTY ROAD 100
DEATSVILLE, AL. 36022-2739
OR WHEREVER HE MAY BE FOUND**

In the hereinafter styled and numbered cause: 20-58

You are hereby commanded to appear before the 69TH DISTRICT COURT of Moore County to be held at the courthouse located at 715 S Dumas Ave in the City of Dumas, Moore County, Texas, by filing a written answer to the petition of PLAINTIFF – on or before 10:00 A.M. on the Monday next after the expiration of twenty (20) days after the date of service thereof at the office of the District Clerk at 715 S Dumas Ave-Room 109, Dumas, Texas 79029, a copy of which accompanies this citation, in cause number **20-58** styled:

**PERLA CABALLERO SANCHEZ, NEXT FRIEND TO
RAFAEL CORRAL, A MINOR
-VS-
TENNESSEE STEEL HAULERS, INC.
ALABAMA CARRIERS, INC.
JOHNNY M. FOX**

Filed in said court on the 07/15/2020.

The name and address of the attorney of record for above PLAINTIFF, is

CHRIS HOFMANN, 1008 S. MADISON, AMARILLO, TX 79101.

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a Default Judgment may be taken against you."

ISSUED AND GIVEN UNDER MY HAND AND SEAL OF SAID COURT AT Dumas, Texas 79029, ON THIS THE 16th day of July, 2020.



**Diane Hoefling, District Clerk
Moore County
715 S Dumas Ave-Room 109
Dumas, Texas 79029**

By: Mayra Rivero
MAYRA RIVERO, DEPUTY CLERK

COPY TO SERVE

OFFICER/AUTHORIZED PERSON RETURN

CAME to hand on the _____ day of _____, 20____.

EXECUTED by certified mail 7012 3050 0000 4181 2099 to the within named JOHNNY M. FOX return receipt requested with restricted delivery, a true copy of this citation together with the accompanying copy of the PLAINTIFF'S ORIGINAL PETITION, having first attached such copy of such PLAINTIFF'S ORIGINAL PETITION to such copy of citation, to the following address:

118 COUNTY ROAD 100, DEATSVILLE, AL. 36022-2739

Service upon the defendant is evidenced by the return receipt incorporated herein and attached hereto signed by _____ and dated _____.

NOT EXECUTED, for the following reason:

_____.

TO CERTIFY WHICH WITNESS MY OFFICIAL SIGNATURE.

_____ County, Texas

By _____ Deputy

80 PageID 36 FILED
DIANE HOEFLING
DISTRICT COURT
7/15/2020 2:47 PM
MOORE COUNTY, TEXAS
BY Mayra Rivero

CAUSE NO. 20-58

JURY TRIAL DEMANDED

PERLA CABALLERO – SANCHEZ,
Individually and as Next Friend to
RAFAEL CORRAL, A Minor,

Plaintiffs,

VS.

TENNESSEE STEEL HAULERS, INC.,
ALABAMA CARRIERS, INC., and
JOHNNY M. FOX,

Defendants.

IN THE 69TH DISTRICT COURT

IN AND FOR

MOORE COUNTY, TEXAS

PLAINTIFFS' ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Perla Caballero-Sanchez, individually and as Next Friend to Rafael Corral, A Minor (hereinafter referred to as "Plaintiffs") complaining of Tennessee Steel Haulers, Inc., Alabama Carriers, Inc., and Johnny Fox (hereinafter referred to as "Defendants") and for cause of action would show:

I. DISCOVERY PLAN

1. Pursuant to TEX. R. CIV. P. 190.1, Plaintiff intends for discovery to be conducted under level 3 and in accordance with the TEX. R. CIV. P. 190.4 Discovery Control Plan.

II. PARTIES

2. Plaintiff, Perla Caballero-Sanchez, is an individual who resides in Dumas, Moore County, Texas. For identification purposes the last three digits of her driver's license are 574 and the last three digits of her social security number are 259.

3. Plaintiff, Rafael Corral, is a minor who resides in Dumas, Texas. For identification purposes his date of birth is 07/25/1980.

4. Defendant, Tennessee Steel Haulers, Inc., is a domestic corporation duly licensed to do business in the state of Texas and may be served with process by serving its registered agent, CT Corporation System, 800 S. Gay Street, Suite 2021, Knoxville, Tennessee, 37929-9710.

5. Plaintiffs specifically invoke the right to institute this suit against whatever entity was conducting business using the assumed or common name of Tennessee Steel Haulers, Inc. with regard to the events described in this petition. Plaintiffs expressly invoke this right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of the party substituted at a later time upon the motion of any party or the Court.

6. Defendant, Alabama Carriers, Inc. is a domestic corporation duly licensed to do business in the state of Texas and may be served with process by serving its registered agent, CT Corporation System, 800 S. Gay Street, Suite 2021, Knoxville, Tennessee, 37929-9710.

7. Plaintiffs specifically invoke the right to institute this suit against whatever entity was conducting business using the assumed or common name of Tennessee Steel Haulers, Inc. with regard to the events described in this petition. Plaintiffs expressly invoke this right under Rule 28 of the Texas Rules of Civil Procedure to have the true name of the party substituted at a later time upon the motion of any party or the Court.

8. Defendant, Johnny M. Fox is an individual, nonresident of Texas whose usual abode is located at Deatsville, Elmore County, Alabama and who may be served with citation at his place of residence, 118 County Road 100, Deatsville, Alabama,

36022-2739, or wherever he may be found.

III. MINSOMER/ALTER EGO

9. In the event any parties are misnamed or are not included herein, it is Plaintiffs contention that such was a “misidentification”, “misnomer” and/or such parties are/were “alter egos” of parties named herein. Alternatively, Plaintiffs contend that such “corporate veils” should be pierced to hold such parties properly included in the interest of justice.

IV. JURISDICTION

10. The court has jurisdiction over Defendants, Tennessee Steels Haulers, Inc., and Alabama Carriers, Inc., because defendants do business in Texas, have committed a tort, in whole or in part, in Texas, have continuing contacts with Texas, and are amenable to service by a Texas court.

11. The court has jurisdiction over Defendant, Johnny Fox, a nonresident, because Defendant was involved in a collision while operating a motor vehicle in Texas, as more fully described below.

12. The court has jurisdiction over the controversy because the amount for which Plaintiff herein sues is within the jurisdictional limits of the court.

V. VENUE

13. Venue of this action is proper in Moore County, Texas, where the incident made the basis of this lawsuit occurred. CIV. PRAC. & REM. CODE §15.002(a)(1).

VI. FACTS

14. This is an action for money damages arising from an automobile collision between Plaintiffs and Defendants occurring on or about September 25, 2018, in which

Plaintiffs suffered injuries and damages as more fully described below. More specifically, Plaintiffs would show that at approximately 8:00 a.m. Plaintiff, Perla Caballero-Sanchez, was operating her vehicle and heading westbound on E. 5th Street in Dumas, Moore County, Texas. Defendant, Johnny Fox, was traveling southbound on S. Maddox Avenue. At the intersection of E 5th Street and S. Maddox Avenue, Defendant Fox disregarded a stop signal and collided with Plaintiff's vehicle. Defendant's negligence caused Plaintiffs' injuries and damages made the subject of this suit.

VI. NEGLIGENCE AND NEGLIGENCE PER SE

A. Johnny Fox

15. Plaintiffs would show that the collision described above, and their resulting injuries and damages were the direct and proximate result of Defendant's negligence. Specifically, Plaintiffs would show that Defendant, Johnny Fox, was negligent and negligent per se in one or more of the following respects, to wit:

- a) Violation Texas Transportation Code § 545.151 by failing to stop, yield, and grant immediate use of the intersection in obedience to an official traffic-control device or sign. And proceeding when the intersection can be safely entered without interference or collision with traffic using a different street or roadway;
- b) Violation Texas Transportation Code § 545.153 by failing to yield right-of-way to a vehicle that has entered the intersection from another highway or that is approaching so closely as to be an immediate hazard to the operator's movement in or across the intersection;

- c) By failing to use due care;
- d) By failing to pay proper attention to the roadway;
- e) In failing to keep a proper look-out; and
- f) In failing to take evasive action necessary to avoid the collision.

16. Each of the foregoing acts and omissions, whether taken singularly or in any combination, was a proximate cause of the collision made the basis of this suit and Plaintiffs' resulting injuries and damages.

B. Alabama Carriers, Inc.

17. At all times relevant to this matter, Defendant Johnny Fox was in the course and scope of his employment with Defendant Alabama Carriers, Inc. Therefore, Plaintiffs would show that Defendant Alabama Carriers, Inc. was negligent and negligent per se in one or more of the following respects, to wit:

- a) Negligently entrusting one of its vehicles to an incompetent driver;
- b) By failing to properly train individuals who had access to its vehicles;
- c) By failing to provide and/or enforce driving safety policies to individuals to whom it entrusted its vehicles; and
- d) By failing to exercise reasonable supervision of drivers to whom it entrusted its vehicles.

18. The negligence of Defendant Johnny Fox is attributable to Defendant Alabama Carriers, Inc. as the agent and employer of the driver. Plaintiffs specifically invoke the doctrine of *respondeat superior* with respect to the acts and/or omissions of Defendant Johnny Fox, which were performed within the course and scope of his duties with Defendant Alabama Carriers, Inc.

B. Tennessee Steel Haulers, Inc.

19. Defendant Tennessee Steel Haulers, Inc. is the parent company of Alabama Carriers, Inc. (the owner of the load being hauled by Defendant Johnny Fox and Mr. Fox's employer at the time of the accident made the basis of this suit). Therefore, Plaintiff would show that Defendant Tennessee Steel Haulers, Inc. was negligent and negligent per se in one or more of the following respects, to wit:

- a) Negligently entrusting one of its vehicles to an incompetent driver;
- b) By failing to properly train individuals who had access to its vehicles;
- c) By failing to provide and/or enforce driving safety policies to individuals to whom it entrusted its vehicles; and
- d) By failing to exercise reasonable supervision of drivers to whom it entrusted its vehicles.

20. The negligence of Defendant Johnny Fox is attributable to Defendant Tennessee Steel Haulers, Inc. as the agent and employer of the driver. Plaintiffs specifically invoke the doctrine of *respondeat superior* with respect to the acts and/or omissions of Defendant Johnny Fox, which were performed within the course and scope of his duties with Defendant Tennessee Steel Haulers, Inc.

VII. DAMAGES

A. Perla Caballero-Sanchez

21. As a direct and proximate result of Defendant's negligence, Plaintiff, Perla Caballero-Sanchez, suffered serious physical injuries at minimum to her head, neck, back, bilateral arms and hands.

Plaintiff sues Defendant for the following damages:

- a) physical pain and mental anguish in the past and future;
- b) physical impairment in the past and, in reasonable probability, will be sustained in the future;
- c) disfigurement sustained in the past and, in reasonable probability, will be sustained in the future;
- d) loss of earning capacity in the past and, in reasonable probability, will be sustained in the future; and
- e) reasonable and necessary medical expenses incurred in the past and in the future for the treatment of her injuries.

B. Rafael Corral

22. As a direct and proximate result of Defendant's negligence, Plaintiff, Rafael Corral, suffered serious physical injuries at minimum to his head, neck, back, bilateral shoulders, abdomen, hip, right knee, and bilateral feet. Perla Caballero-Sanchez, as Next Friend to Rafael Corral sues Defendants for the following damages:

- a) physical pain and mental anguish in the past and future;
- b) physical impairment in the past and future;
- c) loss of earning capacity in the past and future; and
- d) Reasonable and necessary medical expenses in the future for treatment of Rafael Corral's injuries.

23. Plaintiff, Perla Caballero-Sanchez, Individually, sues Defendants for the following damages:

- a) Reasonable and necessary medical expenses incurred by her in the past

for the treatment of Rafael Corral's injuries, and in the future for the treatment of Rafael Corral's injuries until he reaches the age of eighteen.

VIII. RULE 47 CLAIM FOR RELIEF

24. In accordance Rule 47(c) of the Texas Rules of Civil Procedure, Plaintiff, Perla Caballero-Sanchez states that she seeks only monetary relief of more than \$200,000.00 and less than \$1,000,000.00, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.

IX. JURY DEMAND

25. Plaintiffs hereby demand a trial by jury.

X. PRAYER

25. WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants be cited to appear and answer herein and that upon final jury hearing hereof they have:

- a) Jury verdict against the Defendants for the full amount of Plaintiffs' damages, and thereafter judgment on the jury verdict;
- b) Pre-judgment and post-judgment interest as provided by law;
- c) Costs of suit; and
- d) Such other and further relief, special or general, at law or in equity, to which Plaintiffs may show themselves justly entitled.

XI. DISCOVERY REQUESTS

26. Pursuant to TEX. R. OF CIV. P. 194, Plaintiffs request Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2. The statutory requests for disclosure to Defendants as enumerated by TEX.

R. OF CIV. P 194.2(a) through (l), inclusive, are hereby incorporated as if fully set forth herein.

Respectfully submitted,

HOFFMAN, SHEFFIELD, SAUSEDA & HOFFMAN, PLLC
1008 S. Madison
Amarillo, Texas 79101
Telephone: (806) 376-8903
Fax: (806) 376-5345

/s/ Chris Hoffman

Chris Hoffman
State Bar No. 24002299
choffman@hsshlaw.com

J. E. Sauseda
State Bar No. 17688200
jesausseda@hsshlaw.com

Attorneys for Plaintiffs



DIANE HOEFFLING
Moore County District Clerk
715 Dumas Ave., Room 109
Dumas, TX 79029



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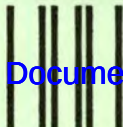
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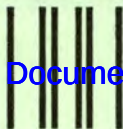
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Elisa Zapata
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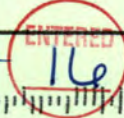
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BY *Elena Zapata*
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EXHIBIT B

Case 2:20-cv-00232-Z Document 1 Filed 09/08/20 Page 59 of 80 PageID 59

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EXHIBIT 2

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

PERLA CABALLERO-SANCHEZ,	§	
Individually and as Next Friend to	§	
RAFAEL CORRAL, A Minor,	§	
	§	Cause No.
<i>Plaintiffs,</i>	§	
	§	
v.	§	_____
	§	
TENNESSEE STEEL HAULERS, INC.,	§	
ALABAMA CARRIERS, INC., and	§	
JOHNNY M. FOX,	§	
	§	
<i>Defendants.</i>	§	

CERTIFICATE OF INTERESTED PERSONS

Pursuant to Fed. R. Civ. P. 7.1 and LR 3.1(c), LR 3.2(e), LR 7.4, LR 81.1(a)(4)(D), and LR 81.2, defendants Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc. provide the following information:

On information and belief, Daseke, Inc. is the parent company to Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc.

On information and belief, the following persons and/or entities are financially interested in the outcome of this case: Daseke, Inc., Tennessee Steel Haulers, Inc., Alabama Carriers, Inc., Johnny M. Fox, Perla Caballero-Sanchez, and Rafael Corral.

Respectfully submitted,

RINEY & MAYFIELD LLP

Mitzi S. Mayfield – TBN 13284425

mmayfield@rineymayfield.com

Alex L. Yarbrough – TBN 24079615

ayarbrough@rineymayfield.com

320 South Polk Street, Suite 600

Maxor Building

Amarillo, Texas 79101

(806) 468-3200; (806) 376-4509 Fax

/s/ Mitzi S. Mayfield

By _____
Mitzi S. Mayfield

RINCON LAW GROUP, P.C.

1014 N. Mesa, Suite 200

El Paso, Texas 79902

(915) 532-6800 (Telephone)

(915) 532-6808 (Facsimile)

/s/ Carlos Rincon

By: _____
CARLOS RINCON
Texas State Bar No. 16932700
CRincon@RinconLawGroup.com

*Attorney for defendants Tennessee Steel
Haulers, Inc. and Alabama Carriers, Inc.*

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was served on the parties through their counsel of record, as follows, on this 16th day of September 2020.

Chris Hoffman
JE Sauseda
Hoffman, Sheffield, Sauseda &
Hoffman, PLLC
1008 S. Madison
Amarillo, Texas 79101
(806) 376-8903 (Telephone)
(806) 376-5345 (Facsimile)
Attorneys for Plaintiffs

- ☒ *Via Electronic Service*
- ☐ *Via Facsimile Transmission*
- ☐ *Via E-Mail*
- ☐ *Via Certified Mail, RRR*
- ☐ *Via USPS First Class*
- ☐ *Via Hand Delivery*
- ☐ *Via Commercial Delivery Service*

/s/ Mitzi S. Mayfield

Mitzi S. Mayfield

EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

PERLA CABALLERO-SANCHEZ,

Plaintiff,

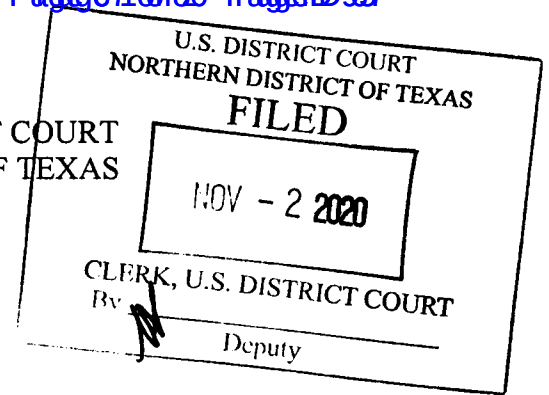
v.

TENNESSEE STEEL
HAULERS, INC., *et al.*,

Defendants.

§
§
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§
§

2:20-CV-212-Z



ORDER

Before the Court is the parties' Agreed Motion to Remand (ECF No. 10). Having considered the Motion and applicable law, the Court GRANTS the motions and REMANDS the case to the 69th Judicial District Court of Moore County, Texas.


This case arose out of a traffic accident in Dumas, Texas which occurred on September 25, 2018. Plaintiff, a Texas resident, filed suit in state court on July 15, 2020. In her Complaint, Plaintiff alleges both she and her son sustained serious personal injuries as a result of Defendant Fox's negligence. Plaintiff also sued Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc. on various theories of vicarious liability. On September 16, 2020, the Defendants properly removed the action to this Court alleging diversity jurisdiction under 28 U.S.C. § 1332.

On September 25, 2020, Plaintiff amended her Complaint to add Daseke, Inc. as a Defendant. Daseke, Inc. is a business incorporated in Delaware but maintains its principle place of business in Addison, Texas. Accordingly, Daseke, Inc.'s joinder destroyed complete diversity which divests this Court of subject-matter jurisdiction. Therefore, this Court is required to remand the case under 28 U.S.C. § 1447(e).

Accordingly, the Court REMANDS the case to the 69th Judicial District Court of Moore County, Texas. Attorney Carlos Rincon's pending application for admission *pro hac vice* (ECF No. 12) is DENIED as moot. The Court DIRECTS the Clerk of the Court to refund Mr. Rincon's \$100 filing fee. Each party shall bear its own fees and costs.

SO ORDERED.

November 2, 2020.



MATTHEW J. KACSMARK
UNITED STATES DISTRICT JUDGE

EXHIBIT 4

CASE NO. 20-58

PERLA CABALLERO-SANCHEZ,	§	IN THE 69 TH DISTRICT COURT
Individually and as Next Friend to	§	
RAFAEL CORRAL, a minor,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	IN AND FOR
	§	
TENNESSEE STEEL HAULERS, INC.,	§	
ALABAMA CARRIERS, INC., and	§	
JOHNNY M. FOX,	§	
	§	
Defendants	§	MOORE COUNTY, TEXAS

AFFIDAVIT OF SOUMIT ROY

STATE OF TEXAS §
 §
COUNTY OF DALLAS .§

BEFORE ME, the undersigned authority, on this day personally appeared Soumit Roy, who after being by me first duly sworn, upon his oath deposed and stated as follows:

“My name is Soumit Roy, and I am over the age of eighteen (18) years, of sound mind, and fully competent to testify. I am the Chief Legal Officer of Daseke, Inc. By virtue of my duties with Daseke, Inc., I have personal knowledge of the facts set forth herein and all such facts are true and correct.

Daseke, Inc. is a corporation that was formed in Delaware on April 29, 2015. Daseke, Inc. maintains its headquarters in Addison, Texas, and its chief officers are Jonathan Shepko (CEO), Jason Bates (CFO), Rick Williams (COO), Soumit Roy (CLO), Jim Taylor (CIO), and Julie Hoagland (CPO).

Daseke, Inc. is the largest flatbed and specialized transportation and logistics company in North America. Daseke, Inc.'s holdings include a number of subsidiary companies, including Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc. Although Daseke, Inc. expects its culture of ethics, integrity, and trust to be adopted and emulated by its subsidiaries or operating companies, including Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc., each of these companies remains a separate entity with control over its own daily activities, and each maintains headquarters, directors, and officers that are separate from Daseke, Inc.

Tennessee Steel Haulers, Inc. is a corporation that was formed in Tennessee on June 16, 1977. Tennessee Steel Haulers, Inc. is headquartered in Nashville, Tennessee.

Alabama Carriers, Inc. is a corporation that was formed in Tennessee on October 27, 1992. Alabama Carriers, Inc. is also headquartered in Nashville, Tennessee.

Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc. are part of TSH & Co., which is headquartered in Nashville, Tennessee and run by Sid Stanley (founder and CEO Emeritus), Gregg Stanley (CEO), and Michael Sheehan, Sr. (chief business development officer).

In 2017, TSH & Co. became an operating company of Daseke, Inc.

After Daseke, Inc. became its parent company, TSH & Co. continued to have separate headquarters and continued to be self-managed through its own separate executive team.

Daseke, Inc. maintains accounting systems, financial and business records, and tax activity separate from Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc. As an

independent, self-managed operating company, TSH & Co. maintains its own records and handles its own accounting, including payroll and taxes.

Daseke, Inc. does not interfere with the daily activities of Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc.

Daseke, Inc. does not locate or assign clients, loads, drivers, or vehicles to Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc.

Daseke, Inc. does not control or interfere with Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc.'s decisions regarding non-executive personnel, clients, equipment, or loads.

Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc., through their independent executive officers, negotiate and enter their own contracts and rates with potential clients and contractors.

Daseke, Inc. does not have the authority to hire or fire the drivers and independent owner-operators employed by Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc.

Daseke, Inc. did not hire or retain Johnny Fox, and Daseke, Inc. was not involved in the hiring or retention of Johnny Fox under his lease agreement with Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc.

Daseke, Inc. did not have any contractual right to possess, control, or use Johnny Fox's services or his tractor, and Daseke, Inc. did not exercise any actual control over Johnny Fox and/or his tractor at any time relevant to the accident that is the subject of this suit.

Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc. have their own operating authority under the United States Department of Transportation, and each

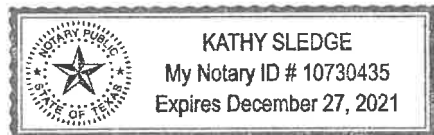
maintains and operates under their own USDOT number – 159317 and 733138, respectively. At the time of the accident that is the subject of this suit, Johnny Fox was operating a grey 2000 Peterbilt tractor-trailer under the operating authority and USDOT number of Alabama Carriers, Inc.

Additionally, Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc. have maintained insurance policies separate from Daseke, Inc.

Tennessee Steel Haulers, Inc. and Alabama Carriers, Inc. are adequately capitalized because they are insured under American Trucking and Transportation Insurance Company, a Risk Retention Group, Policy No. ATTTSH117, and the liability limits under this policy exceed \$1 million.”


SOUMIT ROY

SWORN TO and SUBSCRIBED before me by Soumit Roy, on this the 16th
day of April, 2021.





Notary Public in and for the State of Texas
My commission expires: 12-27-21

EXHIBIT 5

[illegible]

IN AND FOR

MOORE COUNTY, TEXAS

Respectfully submitted,

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ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that the foregoing instrument was delivered to all counsel of record in accordance with the Federal Rules of Civil Procedure on this the 9th day of June, 2021.

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Attorney for Defendant,
Daseke, Inc.

/s/ Chris Hoffman
Chris Hoffman

EXHIBIT 6

CASE NO. 20-58

PERLA CABALLERO-SANCHEZ,	§	IN THE 69 TH DISTRICT COURT
Individually and as Next Friend to	§	
RAFAEL CORRAL, a minor,	§	
	§	
Plaintiff,	§	
	§	
v.	§	IN AND FOR
	§	
TENNESSEE STEEL HAULERS, INC.,	§	
ALABAMA CARRIERS, INC., and	§	
JOHNNY M. FOX,	§	
	§	
Defendants	§	MOORE COUNTY, TEXAS

ORDER OF DISMISSAL WITH PREJUDICE

On the 9th day of June, 2021, Plaintiff, Perla Caballero-Sanchez, individually and as next friend to Rafael Corral, a minor, filed her Notice of Dismissal with Prejudice announcing that Plaintiff will not further prosecute her claims against Defendant, Daseke, Inc., and asking the Court to dismiss with prejudice Plaintiff's claims against Daseke, Inc. only.

IT IS THEREFORE, ORDERED, ADJUDGED, AND DECREED, that all claims and causes of action of the Plaintiff against Defendant, Daseke, Inc., be and are hereby, dismissed with prejudice against re-filing.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED, that all taxable Court costs shall be paid by the respective party incurring same.

This order does not dispose of the Plaintiff's claims against the other Defendants, Tennessee Steel Haulers, Inc., Alabama Carriers, Inc., and Johnny M. Fox.

SIGNED ON THIS THE 10th DAY OF June, 2021.



JUDGE PRESIDING